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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/485,468	02/08/2000	FRIEDHELM BIERWIRTH	SWR-0046	1953
23413	7590	07/21/2004	EXAMINER	
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			VARNER, STEVE M	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/485,468	BIERWIRTH, FRIEDHELM	
Examiner	Art Unit		
Steve M Varner	3635		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 08 February 2000.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-58 is/are pending in the application.  
4a) Of the above claim(s) 1-29 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 31,48-50,53 and 55-58 is/are rejected.  
7)  Claim(s) 30,32-47,49,51,52 and 54 is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## DETAILED ACTION

Claims 1-29 are cancelled.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 39-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 39-41 it is indefinite how the device of claim 31 can further comprise the structure of claims 39, 40, 41.

Regarding claims 42-44, these claims are rejected as depending from rejected claim 41.

Claim 45 depends from a canceled claim.

Claims 46, 47 are rejected as depending from rejected claim 45.

Regarding claim 50, the claim recites desired results without the structure to attain the results.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Kalpins.

Regarding claim 31, Kalpins shows a coupling element (37, 38), a support point (lower end of 39) disposed on the coupling element, the building structure being supported at the support point, and a supporting element (44), the supporting element being coupled with the coupling element and capable of swinging in any direction (Col. 4, Line 50-55), wherein the supporting element is dimensioned and positioned such that the support point is able to freely move in any lateral direction as a free end of a very long biaxially suspended virtual pendulum traversing a path of movement of a locus of a concave sphere in response to the oscillations of the base.

Regarding claim 53, Kalpins shows a rigid rope in the form of hanger rods (44) (Fig. 1).

Regarding claim 55, Kalpins shows three virtual pendulums (44) supporting the building structure (Fig. 2).

Regarding claim 56, Kalpins shows rope. The hanger rods (44) (Col. 6, Line 59) of Kalpins are a rigid rope (Fig. 1).

Regarding claim 57, Kalpins shows the base (89) comprises a foundation (89) having an inclined curvature near the rims of the foundation (Fig. 12, 13).

Regarding claim 58, Kalpins shows the coupling element (37, 38) directly serves as a bearing for the building structure (42) (Fig. 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kalpins.

Regarding claim 48, Kalpins does not show a building structure includes a main portion which is exposed to wind loads and a separated portion which is not exposed to wind loads. It is well known in the art that a building's main portion, its exterior, is exposed to wind loads, and a separated portion, for example interior rooms, which is not exposed to wind loads. It would have been obvious to have a building structure, which has a portion exposed to wind and a portion not exposed to wind as is known in the structure of Kalpins. This structure would protect the interior from wind.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kalpins in view of Baratoff et al.

Regarding claim 49, Kalpins shows the basic claimed structure. Kalpins does not show a load support element disposed between the support point and the building structure and including a mechanical spring having a very low spring rate and corresponding damping. Baratoff et al. shows a load support element (14) disposed between the support point (26) and the building structure (13) and including a mechanical spring (16) having a very low spring rate and corresponding damping (Fig. 1). It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use a spring as in Baratoff et al. in the structure of Kalpins to further dampen the effects of earthquakes.

***Claim Objections***

Claims 30, 32-38, 51, 52, 54, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Possible Allowable Subject Matter***

Claims 39-47 may contain allowable subject matter. This will be determined after the 112 issues are cleared.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Toyama shows support device. Medeot et al. shows a load dissipating and limiting device for application in civil and industrial works having a high strength against seismic effects. Mori shows an earthquake proof foundation.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SV



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600